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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/736,937	12/14/2000-	Duane D. Blatter	13861.21.2	1535

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EXAMINER

ROBERTS, PAUL A

ART UNIT PAPER NUMBER

3731

DATE MAILED: 10/20/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/736,937

Applicant(s)

BLATTER ET AL.

Examiner

Paul A Roberts

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-37 is/are pending in the application.
- 4a) Of the above claim(s) 8, 9, 14, 17, 28 and 37 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 29-36 is/are allowed.
- 6) ☒ Claim(s) 1-7, 10-13, 15, 16, 18-19, 22-24, & 26-27 is/are rejected.
- 7) ☒ Claim(s) 20-21, 25 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

DETAILED ACTION

Election/Restrictions

1. Claims 1-7, 10-13, 15, 16, 18-19, 22-24, & 26-28, and 29-36 are pending.
2. Claims 8, 9, 14, 17, 28 and 37 are currently withdrawn.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 1-7, 10-13, 15, and 16 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The cited support figures 3b, 4d, 5a, 12b, 12g do not adequately support the new limitations of claim 1. No support for this new limitation was found the specification.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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4. Claims 18-19, 22-24, & 26-27 are rejected under 35 U.S.C. 102(b) as being anticipated by Lim et al. "Lim" '615.

5. Regarding claim 18, Lim discloses an anastomosis device with two compression plates that don't puncture the vessel. The vessel walls are placed inside the compression plates and are inverted. A locking component or holding means (shown in figures 3 and 4) locks the device together. Lim further discloses a plurality of tabs as shown as item 6 in figure 4. The tabs are mounted directly to the rings of the anastomosis plates. See response to amendment for further comments.

6. Regarding claim 19, figure 3 shows a snap fit orientation of the plates, and this locking limitation is described in lines 10-20, col. 5.

7. Regarding claim 22, the first and second holding means are located along the inner periphery of the respective openings of the vessel.

8. Regarding claim 23, figure 4 shows the plurality of holding tabs (5) extending from the first plate toward the anastomosis side of the second plate.

9. Regarding claims 24, the tabs extend perpendicularly towards from the ring of first compression plate as shown in figure 4.

10. Regarding claim 26, when the Lim et al. device is placed at an angle, the device extends radially around the blood vessel in the downward direction from uppermost vessel.

11. Regarding claims 27, figure 6 shows the anastomosis of a circular opening.

Allowable Subject Matter

12. Claims 29-36 are allowed.

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13. The following is an examiner's statement of reasons for allowance: claim 26 recites the limitations of an anastomosis plate device comprising holding tabs, a ring, two plates, a holding surface, locking arms, and a locking extension. The prior art does not disclose an anastomosis device with all of these limitations.

14. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

15. Claims 20, 21, & 25 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

16. The following is a statement of reasons for the indication of allowable subject matter: regarding claims 20 and 21, these claims claim a plurality of locking arms and locking tabs. The prior art fails to disclose an anastomosis device with a plurality of both arms and tabs. Regarding claim 25, the prior art fails to teach the limitation of curved holding tabs. The Lim et al. reference fails to disclose any reasons one would modify his design to include curved tabs.

Response to Amendment

17. Regarding claim 18, Lim discloses a compression plate opening (the space between the two plates), which is defined by a plurality of holding tabs (5). The tabs extend from a ring (part of plates, the adjacent to the tabs) of the compression plate, and the tabs are capable of holding the first vessel portion. A recitation of the intended use (what the tabs are adapted to hold) of the

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claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.


Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paul A Roberts whose telephone number is (703) 305-7558. The examiner can normally be reached on 7:30-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael J Milano can be reached on 703-308-2496. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0858.

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13/10/03


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